

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CITYNET, LLC, on behalf
of the United States of America,

Plaintiff/Relator,

V.

FRONTIER WEST VIRGINIA INC., a West Virginia corporation, **KENNETH ARNDT**, individually, **DANA WALDO**, Individually, **MARK McKENZIE**, Individually, **JIMMY GIANATO**, individually, and **GALE GIVEN**, individually,

Defendants.

Civil Action No.: 2:14-CV-15947

Judge: Copenhagen

**CITYNET, LLC’S RESPONSE TO THE STATE OF WEST VIRGINIA’S
MOTION TO INTERVENE**

The State of West Virginia has moved to intervene in this matter for the sole purpose of recouping the monetary payments it has already paid to the federal government based upon the allegations contained in Citynet LLC's First Amended Complaint. In essence, the State of West Virginia's position is that it should be allowed to recoup its payments in the event the Federal Government recovers a second time for the claims upon which it has already received payment from the State of West Virginia.

Citynet, LLC has no objection to the State of West Virginia's Motion to Intervene so long as two conditions are met: 1) the intervention does not interfere with or impede Citynet's ability to lead the prosecution of this case as Relator; and 2) the intervention does not affect Citynet's ability to fully recover any and all fees, costs or other amounts to which it is statutorily entitled should it prevail in this matter.

WHEREFORE, Citynet requests that this Court grant the State of West Virginia's Motion to Intervene with the requirement that said intervention does not impede or impair Citynet's ability to prosecute this matter or collect amounts to which it may be statutorily entitled.

Respectfully submitted,

CITYNET, LLC

/s/ Rebecca Pomeroy

Benjamin L. Bailey (WVSB #200)

Rebecca Pomeroy (WVSB #8800)

Bailey & Glasser, LLP

209 Capitol Street

Charleston, WV 25301

(304) 345-6555

(304) 342-1110 *facsimile*

Nicholas S. Preservati (WVSB #8050)

Spilman, Thomas & Battle, PLLC

P.O. Box 273

Charleston, WV 25321-0273

(304) 720-3437

C. Simon Davidson (pro hac vice)
McGuire Woods LLP
310 Fourth Street, N.E., Suite 300
Charlottesville, VA 22902
cdavidson@mcguirewoods.com

Jeremy S. Byrum (pro hac vice)
McGuire Woods LLP
800 E. Canal Street
Richmond, VA 23219
jbyrum@mcguirewoods.com
Counsel for Defendants Frontier Defendants

Douglas P. Buffington II
Curtis R. A. Capehart
West Virginia Attorney General Office
State Capitol, Bldg 1, Rm E-26
1900 Kanawha Blvd. East
Charleston, WV 25305-0220
Doug.P.Buffington@wvago.gov
Curtis.R.A.Capehart@wvago.gov
Counsel for State of West Virginia

Augustine M. Ripa
U.S. Dept. Justice
P.O. Box 261
Ben Franklin Station
Washington, DC 20044
Augustine.M.Ripa@usdoj.gov

Jennifer M. Mankins
U.S. Attorney's Office
P.O. Box 1713
Charleston, WV 26326-1713
jennifer.mankins@usdoj.gov
Counsel for the United States of America

/s/Rebecca Pomeroy
Rebecca Pomeroy (WVSB #8800)